



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

February 22, 2012

Jeff Slothower, Attorney at Law
PO Box 1088
Ellensburg WA 98926-1900

Re: Trust Water Right Application Nos. CS4-00170sb7a, CS4-00170sb7b,
CS4-00170sb7c, CS4-01745Asb7a and CS4-01745Asb7b
Taylor Ranches LLC

Dear Mr. Slothower:

We have received your trust water right applications and have assigned the application numbers shown above. Please use these numbers in future communications with our office.

If you have any questions, please contact Teresa Mitchell at 509-575-2597.

Sincerely,

Mark Kemner, LHG
Section Manager
Water Resources Program

MK:hd
120208

cc: Taylor Ranches, LLC

App-trustwater.doc

FILE COPY



7010 0290 0000 7131 2788

U.S. Postal Service <small>TM</small>	
CERTIFIED MAIL <small>TM</small> RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

MAILED
5/9/13
Postmark Here

Sent To:	Taylor Ranches LLC
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	CS4-00170sb7a, b & c

PS Form 3800, August 2006 See Reverse for Instructions

This certified card covers the following file:

CS4-00170sb7a

CS4-00170sb7b

CS4-00170sb7c

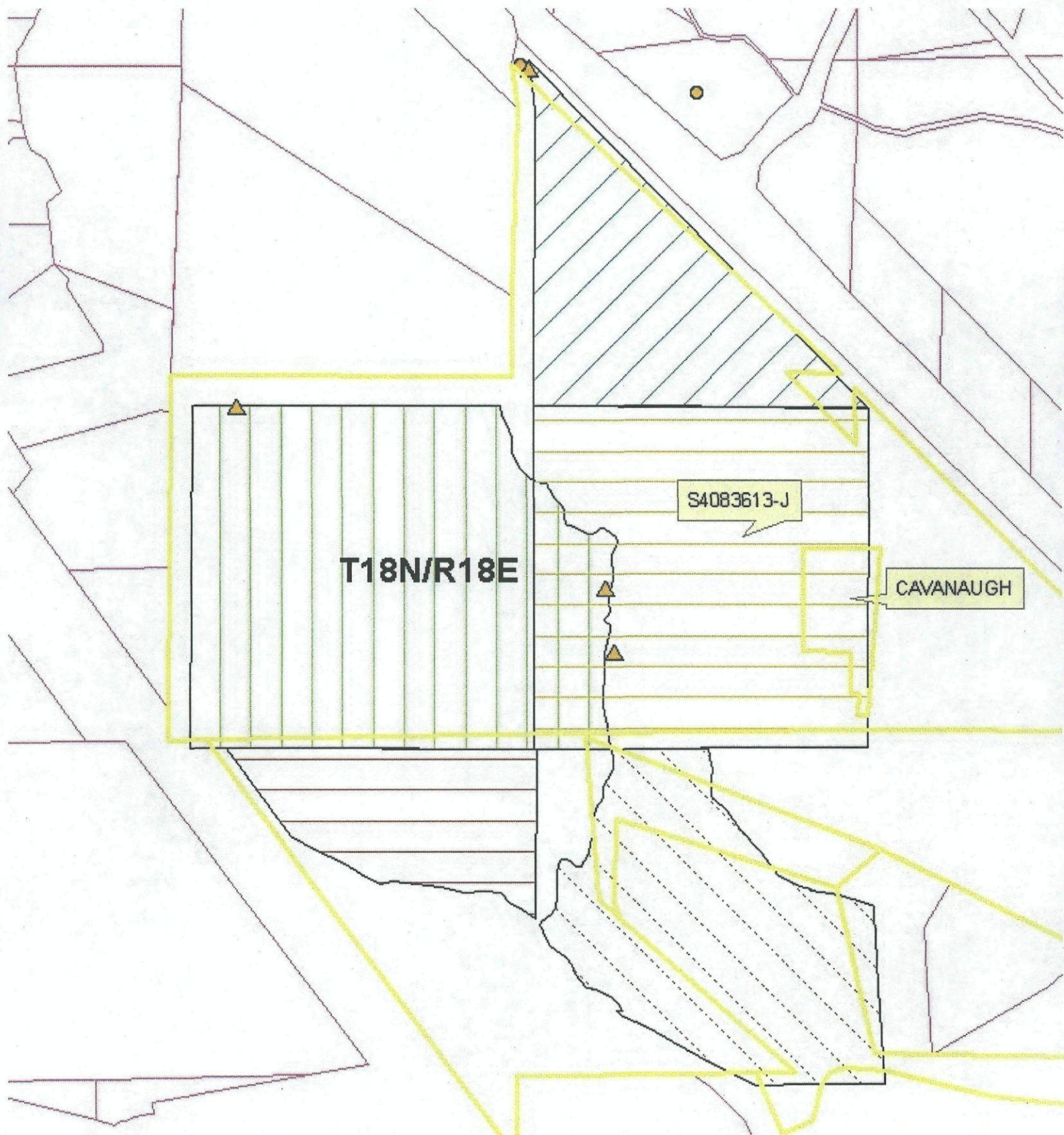
ORIGINAL is in CS4-00170sb7a

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature X <i>Petaylor</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>TAYLOR RANCHES, LLC 3012 HIGHWAY 97 ELLENSBURG, WA 98926-8386 WR/ss TWD CS4-00170sb7a, b & c 5/9/13</p> </div>		<p>B. Received by (Printed Name) <i>Pet Taylor</i> C. Date of Delivery</p>	
<p>2. Article Number (Transfer from service label) 7010 0290 0000 7131 2788</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

parcel_id	Assessor_n	Owner_Name	Owner_Ad_1	Owner_Ad_2	Zip
12323	18-18-29010-0007	TAYLOR RANCHES LLC	3012 HIGHWAY 97	ELLENSBURG WA	-98926
281033	18-18-29010-0001	TAYLOR RANCHES LLC	3012 HIGHWAY 97	ELLENSBURG WA	-98926
802136	18-18-29010-0006	TAYLOR RANCHES LLC	3012 HIGHWAY 97	ELLENSBURG WA	-98926
356233	18-18-20040-0006	CAVANAUGH, KATY M	3008 HWY 97	ELLENSBURG WA	-98926
346233	18-18-20030-0006	TAYLOR RANCHES LLC	3012 HIGHWAY 97	ELLENSBURG WA	-98926

Re: 54-83613-J



T18N/R18E

S4083613-J

CAVANAUGH

CLAIMANT NAME: Taylor Ranches, LLC COURT CLAIM NO. 00170

Certificate Number: S4-83613-J

Subbasin: 07 Reecer Creek

Source: Dry Creek

Use: Irrigation of 26 acres and stock water

Period of Use: April 1 through October 31

Quantity: 3.7 cfs, 603.2 acre-feet per year

Priority Date: December 5, 1890

Point of Diversion: 5 feet south and 5 feet east from the center of Section 20, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T. 18 N., R. 18 E.W.M.

Place of Use: The SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T. 18 N., R. 18 E.W.M.

Limitations of Use: On January 14, 2008, notice was given that an application to change the point of diversion for this right had been approved. The point of diversion has been changed to a point on Dry Creek located approximately 630 feet north and 2310 feet east from the SE corner of Section 20, being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T. 18 N., R. 18 E.W.M. (GPS point N 47.0303, W 120.6125). Full beneficial use of the water right must occur by December 31, 2010. At the conclusion of the development schedule, the difference between the quantity of water established in the right and the maximum quantity of water used at the new point of diversion will be placed in the State Water Trust for a period of twenty (20) years. Water may not be diverted at the new point of diversion when water is not available for diversion at the old point of diversion. The approval contained a development schedule requiring that construction be completed by September 1, 2006. To date a completion of construction form has not been filed.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

March 28, 2007
CERTIFIED MAIL

Pat Taylor
Taylor Ranches LLC
3012 Highway 97
Ellensburg WA 98926-8386

Dear Mr. Taylor:

RE: Water Right Change Application Nos. CS4-00170CTCL@1 (KITT-04-05)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD) and Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Kittitas County Water Conservancy Board (Board) for the above referenced application for change.

Ecology **AFFIRMS** the decision of the Board. A summary table of the decision follows:

Summary of Department of Ecology's Final Order

MAXIMUM CFS	MAXIMUM GPM	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
3.7		603.2	Irrigation of 26 acres and stock water				
SOURCE Dry Creek			TRIBUTARY OF (IF SURFACE WATER) Yakima River				
AT A POINT LOCATED: PARCEL NO.	¼ SW	¼ SE	SECTION 20	TOWNSHIP N. 18	RANGE 18 E.	WRIA 39	COUNTY Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD							
The SW¼, SE¼ Section 20, T. 18 N., R. 18 E.W.M.							
PARCEL NO. 18-18-20030-0006	¼ SW	¼ SE	SECTION 20	TOWNSHIP N. 18	RANGE 18 E.		

If you have any questions or concerns on the above information, please call Melissa Downes, Department of Ecology, at (509) 454-4259.

FILE COPY



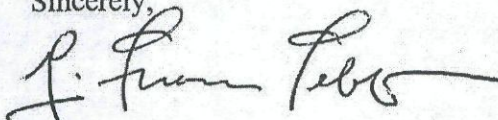
This Decision may be appealed pursuant to RCW 34.05.514(3), RCW 90.03.210(2), and Pretrial Order No. 12 entered in *State of Washington, Department of Ecology v. James Acquavella, et al.*, Yakima County Superior Court No. 77-2-01484-5 (the general adjudication of surface water rights in the Yakima River Basin). The person to whom this Decision is issued, if he or she wishes to file an appeal, must file the notice of appeal with the Yakima County Superior Court **within thirty (30) days of receipt of this Decision**. Appeals must be filed with the Superior Court Clerk's Office, Yakima County Superior Court, 128 North 2nd Street, Yakima WA 98901, RE: Yakima River Adjudication. Appeals must be served in accordance with Pretrial Order No. 12, Section III ("Appeals Procedures"). The content of the notice of appeal must conform to RCW 34.05.546. Specifically, the notice of appeal must include:

- The name and mailing address of the appellant;
- Name and address of the appellant's attorney, if any;
- The name and address of the Department of Ecology;
- The specific application number of the decision being appealed;
- A copy of the decision;
- A brief explanation of Ecology's decision;
- Identification of persons who were parties in any adjudicative proceedings that led to Ecology's decision;
- Facts that demonstrate the appellant is entitled to obtain judicial review;
- The appellant's reasons for believing that relief should be granted; and
- A request for relief, specifying the type and extent of relief requested.

The "parties of record" who must be served with copies of the notice of appeal under RCW 34.05.542(3) are limited to the applicant of the decision subject to appeal, Ecology and the Office of the Attorney General.

All others receiving notice of this Decision, who wish to file an appeal, must file the appeal with the Yakima County Superior Court within **thirty (30) days of the date the Order was mailed**. The appeal must be filed in the same manner as described above.

Sincerely,



G. Thomas Tebb, L.E.G.
Section Manager
Water Resources Program

GTT:MD:gg/070329a

Enclosure: Beginning of Construction Form
 Water Measurement Requirements
 Fish Screening Criteria

cc: Chery Varnum, Kittitas County Water Conservancy Board
 Jeff Slothower, Attorney
 Janet Rajala, Department of Ecology, Eastern Regional Office
 Philip Rigdon, Deputy Director, Natural Resources Division, Yakama Nation



KITTITAS COUNTY
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

For Ecology Use Only	
Received:	DEPT OF ECOLOGY RECEIVED JAN 12 2007 YAKIMA REGIONAL OFFICE
Reviewed by:	_____
Date Reviewed:	_____

Applicant: Patrick J. and Susan A. Taylor

Application Number: KITT 04-05

This record of decision was made by a majority of the board at an open public meeting of the Kittitas County Water Conservancy Board held on January 9, 2007.

☒ **Approval:** The Kittitas County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on January 9, 2007 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The Kittitas County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on _____, 2006 and submits this record of decision to the Department of Ecology for final review.

Signed: *Mary Bender*
Chair, Kittitas County Water Conservancy Board

Date: 1-9-07

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

Dan Hall
Kittitas County Water Conservancy Board

Date: 1/9/07

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

AS
Kittitas County Water Conservancy Board

Date: 1-9-07

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

Kittitas Water Conservancy Board

Date: _____

Approve	<input type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

Kittitas Water Conservancy Board

Date: _____

Approve	<input type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

Mailed to the Department of Ecology Yakima Regional Office of Ecology, and other interested parties on _____, 2007.

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

Ecology is an equal opportunity employer



KITTITAS COUNTY
WATER CONSERVANCY BOARD
Application for Change/Transfer
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON

Report of Examination

DEPT OF ECOLOGY
Received

JAN 12 2007

<input checked="" type="checkbox"/> Surface Water	<input type="checkbox"/> Ground Water		
DATE APPLICATION RECEIVED 2/23/2004	WATER RIGHT DOCUMENT NUMBER Acquavella Court claim No. 00170, Subbasin 7 (Reecer Creek)	WATER RIGHT PRIORITY DATE 1890	BOARD-ASSIGNED CHANGE APPLICATION NUMBER Kitt 04-05

NAME Patrick J. and Susan A. Taylor	(CITY) Ellensburg	(STATE) WA	(ZIP CODE) 98926
ADDRESS (STREET) 3012 Highway 97			

Changes Proposed: ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☒ Change point of diversion/withdrawal
☐ Add point of diversion/withdrawal ☐ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND 3.7	MAXIMUM GAL/MINUTE n/a	MAXIMUM ACRE-FT/YR 603.20	TYPE OF USE, PERIOD OF USE Irrigation of 26 acres and stock water (4/01 to 10/31)				
SOURCE Dry Creek			TRIBUTARY OF (IF SURFACE WATER) Yakima River				
AT A POINT LOCATED: 5 ft. South and 5 ft. East from the center of Sec. 20	¼ NW	¼ NE	SECTION 20	TOWNSHIP N. 17	RANGE 18	WRIA 18	COUNTY. Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED SW ¼ SE ¼ of Sec. 20 Township 18 North, Range 18 East, W.M.							
PARCEL NO.	¼ SW	¼ SE	SECTION 20	TOWNSHIP N. 18	RANGE 18		

Proposed Use

MAXIMUM CUB FT/ SECOND 3.7	MAXIMUM GAL/MINUTE n/a	MAXIMUM ACRE-FT/YR 603.20	TYPE OF USE, PERIOD OF USE Irrigation of 26 acres and stock water (4/01 to 10/31)				
SOURCE Dry Creek			TRIBUTARY OF (IF SURFACE WATER) Yakima River				
AT A POINT LOCATED: GPS Point: N. 47.0303; W. 120.6125	¼ SW	¼ SE	SECTION 20	TOWNSHIP N. 18	RANGE 18	WRIA 18	COUNTY. Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED SW ¼ SE ¼ of Sec. 20 Township 18 North, Range 18 East, W.M.							
PARCEL NO.	¼ SW	¼ SE	SECTION 20	TOWNSHIP N. 18	RANGE 18		

Board's Decision on the Application

MAXIMUM CUB FT/ SECOND 3.7	MAXIMUM GAL/MINUTE n/a	MAXIMUM ACRE-FT/YR 603.20	TYPE OF USE, PERIOD OF USE Irrigation of 26 acres and stock water (4/01 to 10/31)				
SOURCE Dry Creek			TRIBUTARY OF (IF SURFACE WATER) Yakima River				
AT A POINT LOCATED: GPS Point: N. 47.0303; W. 120.6125		¼ SW	¼ SE	SECTION 20	TOWNSHIP N. 18	RANGE 18	WRIA COUNTY. Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD SW ¼ SE ¼ of Sec. 20 Township 18 North, Range 18 East, W.M.							
PARCEL NO.	¼ SW	¼ SE	SECTION 20	TOWNSHIP N. 18	RANGE 18		

DESCRIPTION OF PROPOSED WORKS

Pat and Susan Taylor (the Taylors) own property on lower Dry Creek and Cabin Creek (a small tributary to Dry Creek) where they raise hay and cattle. In 2002, the Taylors approached the Kittitas County conservation District (KCCD) with concerns about their irrigation diversions on Dry Creek and Cabin Creek that were not screened to protect fish from entrainment. In addition the existing irrigation systems involved earthen delivery ditches and flood irrigation.

Local fish biologist Pat Monk performed a snorkel survey of both creeks in the fall of 2002 and confirmed the presence of juvenile Chinook salmon. The KCCD worked with the Taylors to design a project that would protect fish in both Cabin Creek and Dry Creek and would provide a more efficient irrigation system. The KCCD applied for a grant from the Salmon Recovery Funding Board and concurrently, the Taylors applied for USDA funds through the Natural Resources Conservation Service Environmental Quality Incentives Program. Both applications were accepted and used together with Yakima Tributary Access & Habitat Program funds, to purchase and install 3 center pivot sprinkler systems and a pump station in Dry Creek with appropriate fish screens. The new pump station will allow the diversion structure on Cabin Creek to be abandoned and removed. It was a barrier to juvenile fish passage into additional rearing habitat in Cabin Creek. The project will ultimately result in saved water through irrigation efficiencies. The Taylor's intend on transferring the saved water to the State Water Trust once the quantity of saved water becomes certain.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE:
June 1, 2007	September 1, 2007	December 31, 2010

REPORT

I. BACKGROUND

Pat and Susan Taylor of Ellensburg, WA filed an application for change to change the point of diversion of a water right confirmed under *Ecology v. Acquavella* (Yakima County Cause No. 77-2-01484-5)(*Acquavella*) Court Claim No. 00170. The application was accepted by the Kittitas County Water Conservancy Board at an open public meeting on February 17, 2004 and the board assigned application number KITT 04-05. This transfer was previously approved by the Board, however, during Ecology's review of the Board's approval it was discovered that there was an error in the published notice of water right change application. Therefore, the Board withdrew its decision and the applicant republished notice of this application along with three other companion change applications. A second open public was held on January 9, 2007.

The water right confirmed in *Acquavella* is as follows:

1.1 Name on certificate, claim, permit: Patrick J. Taylor and Susan A. Taylor

Water right document number: *Acquavella* Court Claim No. 00170

Priority date, first use: 1890

Water quantities: Qi: 3.7 Qa: 603.20 acre ft./ year

Source: Dry Creek

Point of diversion/withdrawal: 5 ft. South and 5 ft. East from the center of Sec. 20, being within the NW ¼ NW ¼ SE ¼ Section 20, Township 18 North, Range 18 East W.M.

Purpose of use: Irrigation of 26 acres and stock water

Period of use: April 1 to October 31

Place of use: SW ¼ SE ¼ of Sec. 20 Township 18 North, Range 18 East, W.M.

Existing provisions: none

1.2 Tentative determination of the water right

The tentative determination of the water right by the board after review is as follows:

Name on certificate, claim, permit: Patrick J. Taylor and Susan A. Taylor

Water right document number: *Acquavella* Court Claim No. 00170

Priority date, first use: 1890

Water quantities: Qi: 3.7 Qa: 603.20 acre ft./ year

Source: Dry Creek

Point of diversion/withdrawal: 5 ft. South and 5 ft. East from the center of Sec. 20, being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, Township 18 North, Range 18 East W.M.

Purpose of use: Irrigation of 26 acres and stock water

Period of use: April 1 to October 31

Place of use: SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 20 Township 18 North, Range 18 East, W.M.

Existing provisions: none

The Board arrived at this tentative determination after determining the water rights were confirmed in the Conditional Final Order entered in Subbasin 7 in the *Acquavella* Water Rights adjudication on October 25, 2001. Since being confirmed in *Acquavella* the rights here have been fully exercised by the applicants.

1.3 History of water use

The water rights were diverted from an uncontrolled diversion on Dry Creek. The Taylors and their predecessors have used a series of unlined earthen ditches and pipes to distribute the water to the authorized place of use where the water was applied to grow a variety of crops including pasture, hay, grain and row crops. The water was applied to the crops using a rill irrigation distribution system.

1.4 Previous changes

There are no known or documented prior changes of this water right since the right was confirmed in the *Acquavella* water rights adjudication.

1.5 SEPA

The board has reviewed the proposed project in its entirety. The board has determined that the applicant is exempt from SEPA requirements.

1.6 Other

It is anticipated that the conversion of the method of application of the water to crops from a rill system to sprinkler system will result in a water savings. The applicants do not currently know how much water, if any, will be saved, as a result at the conclusion during the development schedule the applicants proposed to place the conserved portion of the water right, when that number becomes certain, into the State Water Trust. The Taylors were not required to place any portion of saved water as a result of irrigation efficiencies in to the State Water Trust as a condition of receiving the grant money to put in and develop the new irrigation systems. However, the Taylors intend to place the difference between the *Acquavella* confirmed water right and the maximum quantity necessary to raise crops using the new irrigation system into the water trust for the life of the new irrigation system. The quantity of water will be determined at the conclusion of the development schedule when the saved water will be placed in trust by separate application to the Department of Ecology through the trust water rights program. Many water right holders who participate in current irrigation efficiencies programs must place the saved water in trust for the life of the system which varies from 20 to 25 years.

COMMENT AND PROTESTS

Public notice of the application was given in the Ellensburg Daily Record on February 8, 2006 and February 15, 2006. The protest period ended on March 17, 2006. The amended notice of the application was published in the Ellensburg Daily Record on November 21, 2006 and November 28, 2006. The comment period ended on December 28, 2006. There were no protests received during the 30 day protest period. In addition, no oral and written comments, other than testimony from the applicant, were received at an open public meeting of the board or other means as designated by the board.

II. INVESTIGATION

The following information was obtained from a site inspection conducted by Gregg Hall on April 17, 2006, technical reports, research of department records, information provided by the applicant and conversations with the applicant and/or other interested parties.

2.1 *Proposed project plans and specific details*

Changing the point of diversion from the current confirmed point which is an uncontrolled diversion point from the creek to a state of the art pumping system downstream of the current point of diversion using 3 center pivot sprinkler systems and a pump station in Dry Creek with appropriate fish screens. The new pump station will allow the diversion structure on Cabin Creek to be abandoned and removed.

2.2 *Other water rights appurtenant to the property (if applicable)*

None. However the new system will allow the water right holders to withdraw at the same location other water they have a right to use. The other rights were also confirmed in *Acquavella* water rights adjudication under court claim No.s 00170 and 01745A. There are five rights total, four of which are being decided contemporaneously with the subject right and a fifth which is the subject of a pending change application.

2.3 *Public Interest (groundwater only)*

Does not apply as this transfer involves a surface right.

2.4 *Tentative Determination*

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report and as set forth in paragraph 1.2.. There are several circumstances that can cause the board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the findings that no portion of the water right has been abandoned or relinquished.

2.5 *Geologic, Hydrogeologic, or other scientific investigations (if applicable)*

None.

2.6 *Other*

Local fish biologist Pat Monk performed a snorkel survey of both creeks in the fall of 2002 and confirmed the presence of juvenile Chinook salmon. The KCCD worked with the Taylors to design a project that would protect fish in both Cabin Creek and Dry Creek and would provide a more efficient irrigation system.

The new pump station will allow the diversion structure on Cabin Creek to be abandoned and removed. It was a barrier to juvenile fish passage into additional rearing habitat in Cabin Creek. The project will ultimately result in saved water through irrigation efficiencies.

3. **CONCLUSIONS**

3.1 *Tentative determination (validity and extent of the right)*

See paragraph 1.2 and 2.4

3.2 *Relinquishment or abandonment concerns*

None.

3.3 *Hydraulic analysis*

No hydraulic analysis was necessary.

3.4 *Consideration of comments and protests*

No comments or protests were raised.

3.5 *Impairment*

The transfer to a new point of diversion is a downstream transfer. This will increase the quantity of water in the stream from the old point of diversion to the new point of diversion. At the new point of diversion another water right holder has a point of diversion into unlined ditches. This transfer will not impact or interfere with that water right holders' exercise of its water right.

The proposed change/transfer will be beneficial in the conservation and management of water resources from existing practices for the following reasons: 1) there will be no increase in withdrawal on an annual/seasonal basis after the change/transfer, compared to existing permitted withdrawals; and 2) better controls and monitoring on the quantity of water pumped will help ensure that the authorized quantity is not exceeded, as required under a metering plan. During Ecology's initial review of this transfer decision one possible impairment issue was identified. The Board elected to take additional evidence on this issue and modify its analysis to incorporate evidence necessary to address this concern. The concern relates to this transfer being a "downstream transfer".

040-106(0505)

Because this transfer will result in moving the point of withdrawal downstream there is a possibility that water might be available at the new downstream point of diversion when it might not have been available at the old upstream point of diversion. If Water was diverted at the new point of diversion when it is not available at the old point of diversion that diversion could result in an expansion of the water right and thus impair other water right users. The Board took evidence from the applicant, Pat Taylor, who testified that based on his familiarity with the property since the late 1960's there has not been a time when water would not have been available at the old point of diversion but would have been available at the new point of diversion. Thus the Board, based on the evidence presented, does not believe the transfer will result in impairment to other water rights. However, the Board does believe the transfer should be conditioned with a proviso that prohibits use of the new point of diversion when water would not be available at the old point of diversion.

Because the proposed action will not increase the existing permitted water use, or increase the water put to actual beneficial use, or result in a measureable impact on other existing water rights or applications for new water right, it does not change the existing status quo for water use impacts. Thus, no impairment is perceived, because of the change/transfer requested in the application. Water use is provided consistent with statutory requirements for beneficial use.

The proposed action does provide for a continuation of the existing beneficial use as stated in the confirmed water right, increasing the economic benefits to the state and local area by allowing for continued use and development of irrigated lands. Conditions are recommended within this ROE to further protect the public interest consistent with state water law.

3.6 Public Interest

Does not apply.

3.7 Other

The board also considered the previous provisions associated with the water right as identified in the background section of this report when making its decision. This transfer will result in a more efficient use of available water and will make water available to instream flow purposes.

4. DECISION

The Board hereby approves the transfer. The attributes of the transferred right are as follows:

Name on certificate, claim, permit: Patrick J. Taylor and Susan A. Taylor

Water right document number: Acquavella Court Claim No. 00170

Priority date, first use: 1890

Water quantities: Qi: 3.7 Qa: 603.20 acre ft./ year

Source: Dry Creek

Point of diversion/withdrawal: GPS point N.47.0303, W.120.6125, being within the SW1/4 of the SE1/4 of Section 20, Township 18 North, Range 18 East W.M.

Purpose of use: Irrigation of 26 acres and stock water

Period of use: April 1 to October 31

Place of use: SW ¼ SE ¼ of Sec. 20 Township 18 North, Range 18 East, W.M.

Existing provisions: none

5. PROVISIONS

5.1 Conditions and limitations

See 5.4

5.2 Mitigation (if applicable)

None necessary.

5.3 Construction Schedule

Work on the new system has already begun and should be completed as soon as possible. Full beneficial use of the water right must occur by November 31, 2009.

5.4 Other

At the conclusion of the development schedule the difference between the quantity of water established in the "transferred right" (Section 4) and the maximum quantity of water used at the new point of diversion will be placed in the State Water Trust for a period of twenty (20) years.

An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use". Chapter 173-173 WAC.

Water use data shall be recorded weekly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to Ecology by January 31st of each calendar year.

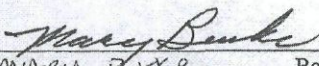
Water may not be diverted at the new point of diversion when water is not available for diversion at the old point of diversion.

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

Chapter 173-173 WAC described the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".

The following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit/Certificate/Claim No., source name, annual quantity used including units of measurement, maximum rate of diversion including units of measurement, peak monthly flow including units of measurement, purpose of use, open channel flow or pressurized diversion, and period of use. In the future, Ecology may require additional parameters to be reported or more frequent reporting. Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

Signed at Ellensburg, Washington
This 4th day of JAN, 2006



MARY BURKE, Board Representative
Kittitas County Water Conservancy Board

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

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